

**CONSTITUTION COMMITTEE:**

**28 FEBRUARY 2022**

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**REPORT OF THE DIRECTOR OF GOVERNANCE AND LEGAL  
SERVICES AND MONITORING OFFICER**

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**CONSTITUTION GUIDE**

**Reason for this Report**

1. To inform the Committee about the new legislative requirement for Councils to prepare and publish an ordinary language guide to the Constitution; and enable the Committee to consider a draft Guide prepared for this purpose.

**Background**

2. The Constitution Committee's approved Terms of Reference are:

To review the Council's Constitution, and to recommend to Council and/or Executive any changes, except that the Committee will have authority (subject to the Monitoring Officer's advice) to make the following changes on behalf of the Council:-

- (a) Drafting improvements to enhance clarity and remove minor anomalies.
- (b) Updating to reflect legislative changes and matters of record.
- (c) Amendments to the Financial, Contracts and Land Procedure Rules (subject to the advice of the S.151 Officer being sought).

**Issues**

3. Under the Local Government Act 2000 (section 37), the Council is required to prepare and keep up to date a document (referred to as its constitution) which contains copies of the council's standing orders and code of conduct, any information which the Welsh Ministers may direct them to keep and any other information which the authority considers appropriate.
4. The Local Government and Elections (Wales) Act 2021 ('the 2021 Act'), section 45, amends section 37 of the 2000 Act (local authority constitution) and places a further duty on principal councils to prepare, and keep up to date, a

constitution guide, which explains the content of their constitution in ordinary language.

5. The amended legislation also requires Councils to ensure copies of their constitution and constitution guide are published electronically and made available at their principal office for inspection by members of the public at all reasonable hours. The Council must supply a copy of its constitution and constitution guide to anyone who requests a copy, either free of charge or at a charge representing no more than the cost of providing the copy.
6. The new legislative requirements come into effect from 5th May 2022.
7. In considering their Constitution Guide, Councils are required to have regard to any statutory guidance issued by the Welsh Government. Draft statutory guidance indicates that:

*'Preparing an effective constitution guide should form part of the council's strategy on encouraging participation in decision making by the council prepared under sections 39, 40 and 41 of the Local Government and Elections (Wales) Act 2021. Councils could speak to local people, and to voluntary organisations representing local people, to understand what it would be most helpful to put in the constitution guide.'*

*Councils should also have regard to their statutory duties in respect of equalities, Welsh language and the Well-being of Future Generations (Wales) Act 2015 when preparing their constitution guide. Councils should involve and consult a wide range of people and groups from diverse backgrounds before publishing the final guide.*

*An effective constitution guide will be one that understands the different interactions that local people are likely to have with the council, and with local democratic systems, and which dwells in more detail on those interactions. It may instead bear more similarity with some of the introductory information on councils' websites describing how the council operates.*

*For example, a guide could provide particular detail on:*

- *The rights of the public to access information about the council (including the right to inspect accounts, and other formal documents);*
- *Rights of access to meetings, and public speaking rights;*
- *Arrangements for petitions.*

*The Welsh Local Government Association and Lawyers in Local Government have produced a model guide to the constitution which councils may find helpful as a starting point. The Guide can be found at (insert reference).'*

8. A draft Constitution Guide, based on the model guide and adapted to reflect Cardiff's constitutional arrangements, is attached as **Appendix A**. Members views are sought on any suggested changes to the draft Guide.

9. Subject to any agreed changes, it is recommended that officers carry out a public engagement and consultation process to seek feedback on the draft Guide, as part of the development of the Public Participation Strategy, prior to the Guide being finalised.
10. Once finalised and approved by the Cabinet as part of the Public Participation Strategy, the Constitution Guide will be published on the Council's website and made publicly available, in accordance with the legislative requirements.

## **Legal Implications**

11. Relevant legal provisions are set out in the body of the report.

## **Financial Implications**

12. There are no direct financial implications arising from the recommendations of this report.

## **Recommendations**

The Committee is recommended to:

1. Consider the draft Constitution Guide attached as **Appendix A** and provide any views on its contents;
2. Note that a public engagement and consultation process will be undertaken to seek feedback on the draft Guide as part of the development of the Council's Public Participation Strategy;
3. Authorise the Monitoring Officer, in consultation with the Chair, to make any agreed changes to reflect the views expressed by the Committee and consultation feedback; and
4. Recommend the draft Constitution Guide, subject to any amendments, for approval by Cabinet as part of the Public Participation Strategy.

**Davina Fiore**

**Director Governance and Legal Services & Monitoring Officer**

22 February 2022

## **Appendices**

Appendix A            Constitution Guide, draft

### Background papers

Draft model Constitution Guide for Welsh Councils, prepared on behalf of the WLGA